

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

PATRICIA A. LATHAM,
Plaintiff,

VS.

THE MINNESOTA LIFE INSURANCE
COMPANY,
Defendant.

)
)
)
)
)
)
)

Case No.: 05-CV-10294-RWZ

MOTION TO CONTINUE DISCOVERY DEADLINE
AND PRE-TRIAL CONFERENCE

Minnesota Life Insurance Company (“Minnesota Life”) by and through its attorneys, Cozen O’Connor, hereby moves this Court to extend the written discovery deadlines and pre-trial conference by 60 days, and in support thereof, states as follows, that:

1. Plaintiff filed this action on March 18, 2005 in the District Court Department of the Trial Court for the Commonwealth of Massachusetts, Lowell Division, which Minnesota Life removed to this Court.

2. Plaintiff's action seeks recovery of benefits under a life insurance policy issued by Minnesota Life to Stephen W. Latham. In addition to her claim for breach of contract, Plaintiff claims that Minnesota Life engaged in unfair settlement practices thereby violating Massachusetts consumer protection laws.

3. In response, Minnesota Life maintains that Mr. Latham made material misrepresentation in his application for insurance, thereby withholding pertinent information, the disclosure of which would have resulted in Minnesota Life's decision not to issue the subject policy.

4. On or about April 12, 2005, the parties submitted a Joint Statement Pursuant to Local Rule 16.1, and the Court held a scheduling conference on April 19, 2005. At the scheduling conference, counsel advised the Court of the respective clients' positions, and the Court deferred entry of a scheduling order and rather set a fact discovery cut-off of July 15, 2005 and scheduled a pre-trial conference for August 3, 2005.

5. Since that date, the parties have exchanged written discovery. Minnesota Life has answered written discovery requested by Plaintiff and awaits answers from Plaintiff to its interrogatories and production requests it propounded. In addition, Minnesota Life is awaiting medical records from the doctor that Mr. Latham identified in his application for insurance.

6. Pending review of the outstanding subpoenaed medical records, as well as the information gleaned from other medical records provided during the claim investigation, Minnesota Life needs to take at least four deposition of doctors that treated Mr. Latham prior to the time he applied for insurance from Minnesota Life.

7. Given their summer schedules, arranging for depositions of the pertinent doctors has been difficult. Minnesota Life continues to attempt to schedule the depositions as soon as possible, but it has become clear that this will not be accomplished by the current fact discovery cut-off of July 15, 2005.

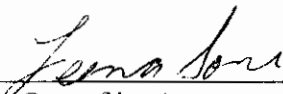
8. It is also unclear whether Plaintiff intends to depose anyone identified by Minnesota Life in either its initial disclosures or answers to written discovery. Counsel for Minnesota Life has attempted to contact Plaintiff's counsel to discuss this Motion but

has been advised that he is on vacation and will not return until after the current fact discovery cut-off date.

WHEREFORE, Minnesota Life respectfully request this Court to extend the current fact discovery cut-off of July 15, 2005 by 60 days and continue the pre-trial conference to a date following the extended fact discovery cut-off.

Respectfully submitted,

Minnesota Life Insurance Co.

By: 
One of its Attorneys

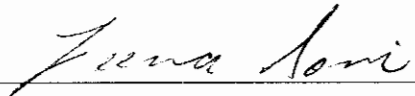
John D. Shea
BBO 600652
1900 Market Street
Philadelphia, PA 19103
Phone: (215) 665-2000
Fax: (215) 665-2013
E-Mail: JShea@Cozen.com

Catherine A.T. Nelson, Esq.
Leena Soni, Esq.
Of Counsel
Cozen O'Connor
222 South Riverside Plaza
Suite 1500
Chicago, IL 60606
(312) 382-3100
cnelson@cozen.com
lsoni@cozen.com

CERTIFICATE OF SERVICE

The undersigned counsel certifies that a copy of the foregoing Motion to Continue Scheduling Order was served via regular mail, postage pre-paid, on the 13th day of July 2005 on the following counsel of record:

Marc R. Deshaies
BBO#550198
388 County Street
New Bedford, MA 02740
(508)996-8921



CHICAGO\345271\1 159988.000